



JUL 07 2005

TO: All Employees

FROM: Director

SUBJECT: Whistleblower Protection

As the Director of the Indian Health Service (IHS), neither I nor any other member of the IHS leadership will tolerate whistleblower reprisal in the IHS. The Whistleblower Protection Act of 1989 provides the right to every employee to make whistleblowing disclosures and ensures protection from reprisal. It is my commitment that employee's rights be safeguarded against whistleblower reprisal. Therefore, any IHS employee who has reason to believe there has been misconduct, fraud, or abuse is encouraged to report it.

Each of us has an important role to play in promoting an environment in which employees feel free to come forward with their legitimate concerns without fear of reprisal. In accordance with 5 United States Code 2302(c), the following information is provided: Whistleblowing is defined as the disclosure of information that an employee reasonably believes is evidence of a violation of any law, rule, or regulation, gross mismanagement, gross waste of funds, abuse of authority, or a substantial danger to public health or safety. Although each employee is encouraged to bring such matters to the attention of his/her management officials, other sources are available to receive the disclosures. An employee can confidentially report these matters to the Program Integrity and Ethics Staff (PIES), Office of Management Services, IHS; the Office of Inspector General (OIG), Department of Health and Human Services (HHS); the Office of Special Counsel (OSC); or other sources, depending on the circumstances.

The PIES office may be contacted at (301) 443-4137 or through the PIES Web address: <http://www.ihs.gov/AdminMngrResources/pies/index.asp>.

The HHS OIG may be contacted at 1-800-HHS-TIPS (1-800-447-8477) or through the Web address: <http://oig.hhs.gov/hotline.html>.

The attached fact sheets, "Your Rights as a Federal Employee," "Whistleblowing," and "Prohibited Personnel Practices," are being provided to each employee. These sheets contain valuable information including the Web address and telephone numbers for the OSC.

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I encourage all employees to read these fact sheets carefully and familiarize themselves with their contents.

This SGM supersedes SGM No. 2003-03, "Whistleblower Protection."

Charles W. Grim, DDS

Charles W. Grim, D.D.S., M.H.S.A.
Assistant Surgeon General

Refer to: PIES

Attachments (3)

PROHIBITED PERSONNEL PRACTICES

By law, Federal Employees may not:

- Discriminate
- Solicit or consider employment recommendations based on factors other than personal knowledge or records of job related abilities or characteristics
- Coerce the political activity of any person
- Deceive or willfully obstruct any person from competing for employment
- Influence any person to withdraw from job competition
- Give an unauthorized preference or advantage to improve or injure the prospects of any particular person for employment
- Engage in nepotism
- Take or threaten to take a personnel action because of whistleblowing
- Take or threaten to take a personnel action because of the exercise of a lawful appeal, complaint, or grievance right
- Discriminate based on personal conduct which does not adversely affect the performance of the employee or other employees
- Knowingly take or fail to take a personnel action in the violation of veteran's preference laws
- Violate any law, rule or regulation implementing or directly concerning merit system principles

More information may be obtained from:

U.S. OFFICE OF SPECIAL COUNSEL
1730 M STREET, N.W., SUITE 201
WASHINGTON, DC 20036-4505

WWW.OSC.GOV

PHONE: (202) 653-7188* TOLL FREE: 1-800-872-9855*

* Hearing and Speech Disabled: Federal Relay Service 1-800-877-8339

YOUR RIGHTS AS A FEDERAL EMPLOYEE
ENFORCED BY
THE U.S. OFFICE OF SPECIAL COUNSEL

I. THE U.S. OFFICE OF SPECIAL COUNSEL (OSC) is an independent agency that investigates and prosecutes allegations of prohibits personnel practices (PPP).

WHAT IS A PROHIBITED PERSONNEL PRACTICE (PPP)?:

Under 5 U.S.C. §2302(b)(1)-(b)(12) a federal employee authorized to take, direct others to take, recommend or approve any personnel action may not:

- **Discriminate (including discrimination based on marital status and political affiliation).** Example: *Supervisor Joe refuses to promote Employee Jane because Jane is a registered Republican. (OSC will generally defer Title VII discrimination allegations to the EEO process, rather than duplicating already existing procedures.)*
- **Solicit or consider employment recommendations based on factors other than personal knowledge or records of job-related abilities or characteristics.** Example: *Selecting Official Joe hires Applicant Jack based on Senator Smith's recommendation that Jack be hired because Jack is a constituent.*
- **Coerce the political activity of any person, or take action against any employee as reprisal for refusing to engage in political activity.** Example: *Supervisor Jane takes away significant job duties of Employee Jack because Jack will not make a contribution to Jane's favorite candidate.*
- **Engage in nepotism.** Example: *Second-level Supervisor Jane asks First-level Supervisor Joe to hire her son.*
- **Take a personnel action against any employee because of Whistleblowing.** Example: *Supervisor Joe directs the geographic reassignment of Employee Jack because Jack reported safety violations to the agency's Inspector General.*
- **Take personnel action against any employee because of the exercise of an appeal, complaint, or grievance right.** Example: *Supervisor Jane places Employee Jack on an undesirable detail because Employee Jack filed an administrative grievance about his performance rating.*
- **Discriminate against an employee on the basis of conduct, which does not adversely affect the performance of the employee (including discrimination based on sexual orientation).** Example: *Supervisor Joe fires employee Jack because he saw Employee Jack at a*

- **Deceive or willfully obstruct any person from competing for employment.** Example: *Supervisor Joe, located in Headquarters, orders that no vacancy announcements be posted in the field office where Employee Jack works because he does not want Jack to get a new job.*
- **Influence any person to withdrawal from competition for a position to improve or injure the employment prospects of any other person.** Example: *Supervisor Jane, in an effort to hire Employee Joe, tells Employee Jack that he should not apply for a position because he is not qualified and will never be selected. Employee Jack is qualified.*
- **Give an unauthorized preference to a person to improve or injure the employment prospects of any particular employee or applicant.** Example: *Supervisor Jane specifies that Spanish-speaking skills are necessary for a vacant position, for the purpose of selecting Employee Jack, who speaks fluent Spanish. The position, however, does not require Spanish-speaking skills.*
- *local Gay Pride Day Event.*
- **Take or fail to take personnel action, if such action would violate a veterans' preference requirement.** Example: *Supervisor Jane hired employee Jack, without considering Veteran Jennifer, who was included on the list of eligible employees. (OSC's jurisdiction is for disciplinary actions only; the Dept. of Labor has jurisdiction to investigate for corrective actions).*
- **Take a personnel action against an employees which violates a law, rule, or regulation which implements a merit systems principle.** Example: *Supervisor Joe terminates the probationary appointment of Employee Jack because of Jack's letter to the editor criticizing affirmative action - a valid exercise of First amendment rights, a law implementing a merit system principle.*

WHAT YOU CAN DO IF YOU BELIEVE A PPP HAS BEEN COMMITTED

An employee who believes a PPP has been committed can file a written complaint with the U.S. Office of Special Counsel. Complaint forms are available on the web site at www.osc.gov. Employees do not need attorneys to file a complaint. OSC is an independent and prosecutorial agency. It will investigate allegations of prohibited personnel practices, and seek any corrective and disciplinary action.

II. The Office of Special Counsel Also Receives Confidential Disclosures and Enforces the Hatch Act

RECEIVING CONFIDENTIAL DISCLOSURES (5 U.S.C. §1213):

Current and former federal employees and applicants can confidentially report information evidencing a violation of any law, rule, or regulation, gross mismanagement, a gross waste of funds, and abuse of authority, or a substantial and specific danger to public health or safety. The OSC has the authority to require the head of the agency concerned to investigate the matter if OSC determines that a disclosure has been made.

ENFORCING THE HATCH ACT (5 U.S.C. §7321-26):

The Office of Special Counsel is authorized to issue advisory opinions that respond to federal employee questions about whether or not they may engage in specific political activities under the Act. The OSC also prosecutes violations of the Hatch Act before the Merit System Protection Board. These violations include: using official authority to interfere with an election result; soliciting; accepting or receiving political contributions; soliciting or discouraging political activity of persons before the employing agency; and running for public office in a partisan political election.

NEED ADDITIONAL INFORMATION?

- Information on filing a complaint: 202-653-7188 or 800-782-9855
- Information on making a disclosure: 202-653-9125 or 800-572-2249
- Updated and detailed information on OSC and its procedures - visit our web page: <http://www.osc.gov>
- Updated and detailed information on OSC in our revised brochure: "The Role of the U.S. Office of Special Counsel" (GPO #028-004-00105-9) by calling 202-512-1800 - The GPO Bookstore.



U.S. Office of Special Counsel
1730 M Street N.W., Suite 210
Washington D.C. 20036-4505



WHISTLEBLOWING

A "whistleblower" provides information he or she reasonably believes evidences:

- A violation of any law, rule or regulation
- Gross mismanagement
- A gross waste of funds
- An abuse of authority
- A substantial and specific danger to public health
- A substantial and specific danger to public safety

The Office of Special (OSC) provides a secure channel through which current and former federal employees and applicants may make confidential disclosures. OSC has the authority to require the head of the agency concerned to investigate the matter if it determines that a disclosure has been made.

**To make a disclosure contact:
U.S. OFFICE OF SPECIAL COUNSEL
1730 M STREET, N.W., SUITE 201
WASHINGTON, DC 20036-4505**

PHONE: (202) 653-9125* TOLL FREE: 1-800-572-2249*

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